IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 4139 of 2005

Between:

G. Ravi, S/o G. Abbaiah
R/o H. No. 8-119/B, New Sai Nagar, Peerzadi guda, Ghatkesar Mandal,
Uppal, Ranga Reddy District, Hyderabad.

..... PETITIONER

AND

1 The Chairman, State Level Police Recruitment Board, Lakadikapool, A.P., Hyderabad
2 State of A.P., rep by Principal Secretary to Government Home (Police-C) Department, Secretariat, Hyderabad.
3 The Director General and Inspector General of Police, Lakadikapool, A.P., Hyderabad.
4 The Deputy Inspector General of Police, Warangal Range, Warangal.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more in the nature of Writ of Certiorari calling for the records relating to order of the Hon'ble A.P. Administrative Tribunal dt 23-2-2005 in O.A. No. 4790 of 2004 quash the same and further declare the action of the respondents in not sending the petitioner for training as stipendiary Cadet Trainee

sub. Inspector of Police (Civil) pursuant to notification dt 17-12-2003 as illegal, bad and arbitrary and further direct the respondents to send the petitioner to the training as stipendiary Cadet Trainee Sub Inspector of Police (Civil) and thereafter consider the case of the petitioner for appointment to the post of Sub Inspector of Police with all consequential benefits and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.J.R.MANOHAR RAO

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed challenging the order, dated 23.02.2005, passed by the A.P. Administrative Tribunal in O.A.No.4790 of 2004.

2. The petitioner is the applicant before the Tribunal. He participated in the recruitment for appointment to the post of Stipendiary Cadet Trainee Sub-Inspector of Police. He was finally selected and he was also subjected to medical examination in which it is stated that he was provisionally detected HIV-1 sero positive. The D.I.G. of Police, Warangal range, Warangal issued Memo, dated 15.07.2004,

directing the petitioner to report in D.I.G. Office, Warangal on 01.08.2004 for sending the petitioner to training, but however, when he was not allowed to join the training, he filed the O.A. before the Tribunal.

3. The learned Tribunal, after going into the merits of the case, found that the petitioner was suffering with HIV, and held that he cannot be appointed as Stipendiary Cadet Trainee in the Police Department and dismissed the O.A., against which the present Writ Petition has been filed.

4. Learned counsel for the petitioner submits that HIV is not a disease, so as to disqualify the petitioner from appointment, as it is not one of the enumerated diseases, which are disqualifications for holding the post. He refers to Rule-14 of A.P. Police (Stipendiary Cadet Trainee) Rules, issued under G.O.Ms.No.315, dated 13.10.1999, which reads as follows:

> "**14. <u>VISUAL STANDARD</u>:**
>
> Visual Standards for the selection of the categories of Stipendiary Trainee Cadets mentioned in these rules shall be as follows:
>
> (a) **<u>Standard-I</u>**
>
> Right Eye Left Eye
>
> (i) Distant Vision --- 6/6 6/6
>
> (ii) Near Vision --- 0/5 o/5
>
> (Snellen) (Snellen)
>
> **<u>Better Eye</u>** **<u>Worse Eye</u>**
>
> Distant Vision-V V. Without glasses not below 6/24
>
> and after correction with glasses not
>
> below 6/12.
>
> Near Vision-Read 0.8 Read-1
>
> (b) Each eye must have a full field of vision.

> (c) Colour blindness, squint or any morbid condition of the eye of lids on either eye, knock-knees, pigeon chest, flat foot, varicose veins, hammer toes, fractured limbs and decayed teeth shall be deemed to be a disqualification."

Therefore, the petitioner denied of employment is illegal and contrary to law, and submits that the order of the Tribunal is liable to be set aside.

5. On the other hand, learned Government Pleader submits that as per Order No.70-1-A of the Police Manual, the persons who are having HIV are ineligible for appointment. The said Order is extracted below:

> "**Order No.70-1-A**:-
>
> Provided also that all candidates selected as Stipendiary Trainees by direct recruitment shall have to undergo medical examination at their own costs for screening of HIV test invariably and produce the certificate. Those candidates who are having HIV positive will not be eligible for recruitment/appointment."

Therefore, the learned Government Pleader submits that since the petitioner was found to be HIV positive, he is not entitled for appointment.

6. We have heard the learned counsel for the petitioner and the learned Government Pleader.

7. The requirement under Order 70-1-A is that the candidates who are having HIV positive will not be eligible for recruitment or appointment, but in the Medical Certificate which is produced before this Court did not disclose as to whether it is HIV positive or not. It only discloses "provisionally detected HIV-1 sero positive".

8. Under those circumstances, we find that Medical Certificate has to be very

specific on this aspect. Therefore, we are inclined to direct the petitioner to be examined again as to whether he is having HIV positive or not.

9. Accordingly, we set aside the order of the Tribunal and direct the petitioner to be present before the Superintendent, MGM Hospital, Warangal for medical examination with reference to HIV and the Superintendent shall indicate whether the petitioner is having HIV positive or not. Basing on the said findings, the appointing authority shall pass appropriate orders. The petitioner shall report before the Superintendent, MGM Hospital, Warangal, within a period of four weeks from the date of receipt of a copy of this order and after examination, the report must be sent to the 1st respondent for taking further action as directed.

10. With the directions indicated above, the Writ Petition is accordingly, allowed. No costs.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 23.03.2005

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To

1 The Chairman, State Level Police Recruitment Board, Lakadikapool, A.P., Hyderabad
2 The Principal Secretary to Government, State of A.P., Home (Police-C) Department, Secretariat, Hyderabad.
3 The Director General and Inspector General of Police, Lakadikapool, A.P., Hyderabad.
4 The Deputy Inspector General of Police, Warangal Range, Warangal.

5 2 CCs to the G.P. for Services-I, High Court of A.P., Hyderabad (OUT)

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